

## DHC in case of Sportking: SCOPE OF DEDUCTION u/s 80IA/80IB

*“4. The issue, therefore, which falls for consideration is, whether the insurance claim which has been received cannot be considered while making deductions in respect of the profits and gains from an industrial undertaking under Section 80-IA. The matter boils down to the meaning of the expression “derived from any business of an industrial undertaking” as appearing in Section 80-IA.*

*5. At the outset, while determining the meaning to be attributed to this expression, one must keep in mind that Section 80-IA is a part of fasciculus of provisions whereby benefits are granted to certain industrial undertakings, businesses etc. including those which are located in certain special locations/areas. The object is generation of new investment and employment with respect to particular industries in certain areas and in certain locations besides generation of revenue for the government and industries from whom plant etc. will be purchased by the new industrial undertaking. The object of the provision is further made clear from Sub-section (2) of Section 80-IA whereby such businesses are not considered for taking advantage of the deduction under Section 80-IA if either it is formed from splitting up of an existing business or by use of machinery or plant previously used and so on. The object is clearly to give fillip to the economy and to investment. This object will have to be kept in view while interpreting the provisions of Section 80-IA.*

*....*

*Therefore, there is no reason why amount received from the insurance company by the assessee company should not be taken into account in determining the profits and gains of an industrial undertaking of the types specified under Section 80-IA.*

*11. The counsel for the Revenue has placed strong reliance on the judgments reported as **Pandian Chemicals Ltd. vs. Commissioner of Income-Tax, 270 ITR 448** and **Vania Silk Mills P. Ltd. vs. Commissioner of Income-Tax, 191 ITR 647**.*

*The case of **Pandian Chemicals** has held that sale of scrap is not a revenue receipt derived from business though the same was held eligible by the Madras High Court in the earlier cases of **CIT vs. Sundaram Clayton Ltd., 133 ITR 34** and **CIT vs. Wheels India Ltd., 141 ITR 745**. So far as the judgment of **Pandian Chemicals** holds that the profit amount received from*

*the insurance company is not a revenue receipt, the same would be at divergence with the view of the Supreme Court in the case of **Raghuvanshi Mills Ltd.** (supra). We note that the **Pandian Chemicals** case does not refer to the decision of the Supreme Court in **Raghuvanshi Mills Ltd.** case which clearly holds that the amount received from Insurance Company on account of loss of profit is very much a revenue receipt.*